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RUEHGO/AMEMBASSY RANGOON PRIORITY 2298  
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C O N F I D E N T I A L SECTION 01 OF 04 TOKYO 000178

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TAGS: [PREL](#) [KJUS](#) [PHUM](#) [JA](#) [TH](#) [BM](#) [CB](#)

SUBJECT: AMB. WILLIAMSON'S MEETING WITH JAPANESE OFFICIALS

Classified By: Ambassador J. Thomas Schieffer. Reasons 1.4 (B) (D)

11. (C) Summary. The international community will need to convince the Cambodian government that it must take immediate action with regard to the corruption issue at the ECCC, visiting Ambassador at-Large for War Crimes Issues Clint Williamson told Japanese officials on December 3. Amb. Williamson explained that a Congressional prohibition prevents the United States from giving funds to the ECCC unless the tribunal is capable of meeting international standards. However, the United States has been encouraged by recent arrests in Cambodia which, together with the efforts taken by the ECCC to address poor management and human resource practices, present an argument that the tribunal can meet such standards. Based on Cambodia's recent record for "reasonably" free and fair elections, Tokyo officials told Amb. Williamson that Phnom Penh is in the process of becoming a "true" democracy, and could one day serve as a good model for other developing countries. Regarding the ECCC, Foreign Ministry officers said the Japanese government would find it difficult to ask the Diet for continued funding when Japan had only committed to pay its share for three years, after which the ECCC was supposed to conclude its mandate. Tokyo's Ambassador in Charge of U.N. Affairs explained that Japan is committed to supporting international tribunals in order to promote a more widespread respect for justice and the rule of law. A former judge for the International Criminal Tribunal for the former Yugoslavia (ICTY), told Ambassador Williamson that Japan's foreign and justice ministries lack knowledge and interest in the international court system, while offering suggestion about how the international community might proceed when the ICTY closes. End Summary.

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ECCC: Corruption the Big Stumbling Block  
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12. (C) Ambassador Williamson told MOFA Director-General for

Southeast and Southwest Asian Affairs Chihiro Atsumi on December 3 that the U.S. Government, in light of the substantive progress the KRT has made and the steps taken to address problems of poor management, is nearly ready to go before Congress to ask for financial support for the Extraordinary Chambers in the Courts of Cambodia (ECCC), but needs a few additional assurances. While he is encouraged by the adoption of formal rules of procedure and the recent arrests of former Khmer Rouge leaders, Ambassador Williamson said he remains very concerned about the potential for corruption to influence the proceedings. Corruption will also be the primary issue of concern to the U.S. Congress, he added. Ambassador Williamson argued for the need to convince the Cambodian government that it must take immediate action with regard to the corruption issue at the ECCC. Foreign jurists on the Court are already saying they will leave if the corruption problem is not adequately addressed, the Ambassador noted, and defense attorneys are planning to cite corruption at the ECCC in their eventual trials.

13. (C) Given the nature of this court, Ambassador Williamson insisted, the United States must maintain a higher standard regarding corruption than with other sorts of aid programs in Cambodia. The United States is perfectly willing to be the "bad guy" in enforcing this line with Cambodia, Ambassador Williamson stated, but would appreciate Japan's reinforcing the message that the ECCC is exceptional among programs in Cambodia (because it is a criminal court that is supported by the UN and should, therefore, represent international standards) and that the corruption problem needs to be addressed. As added encouragement, he said, Cambodia should

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see a potential grant of U.S. aid to the ECCC as a potential break-through to other U.S. financial assistance to that country, should the ECCC function in a transparent manner. Regarding the systemic nature of corruption in Cambodia, Ambassador Williamson pointed out that similar institutions in Sierra Leone, Rwanda, and the Balkans have managed to limit the impact of the rampant corruption in those nations on the courts themselves. He expressed appreciation for the recent recommendation of UN Assistant Secretary General for Legal Affairs Larry Johnson to appoint a special envoy for nine months to clean up the Tribunal, improve management, and ensure better use of existing funds.

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ECCC: Benefit of the Doubt  
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14. (C) DG Atsumi appreciated U.S. interest in providing financial support, noting that it is "quite difficult now" for Japan to continue to fund half of the annual budget for the ECCC. MOFA is finding it more and more difficult to ask the Diet and the Ministry of Finance for continued funding when Japan had only committed to pay its share for three years, after which the ECCC was supposed to conclude its mandate. Given the many delays, it is important to move the process forward so that it can end within a reasonable time frame. He encouraged the United States to make a financial contribution, not only for the functioning of the ECCC, but also for the development of Cambodia itself. DG Atsumi maintained that corruption is widespread in Cambodian society, and not capable of being eliminated easily or quickly for the purposes of the ECCC. He conceded that the recent findings of a UN Development Program audit report detailing deficiencies but no direct proof of corruption are "not good enough," but urged the United States to give Cambodia the benefit of the doubt. Recognizing the importance of maintaining a principled stand against corruption, he hoped the United States could strike an appropriate balance.

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Cambodia Adopting Democracy  
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15. (C) Citing Cambodia's recent record for "reasonably" free and fair elections, DG Atsumi opined that Cambodia is in the process of becoming a "true" democracy, and could one day serve as a good model for other developing countries. A successful conclusion to the ECCC could give Cambodia greater confidence in that regard. He also pointed to Cambodia's recent vote in support of a UN resolution condemning the human rights situation in North Korea, in contrast to the position of many other developing nations that oppose nation-specific measures, as another example of how Cambodia is becoming a more responsible country. Cambodia had abstained from similar votes in the past, he said. From a tactical standpoint, he advised, it is most important to remember that the Cambodian government does not want to "lose face."

16. (C) DG Atsumi also emphasized the importance of understanding Cambodia's view that the ECCC is still a domestic court, albeit one with international judges, which colors their view of the need to fully comport with international standards. He noted that the thinking of some senior Cambodian officials is colored by their distrust of the UN, and even sometimes of the intentions of the international community. He agreed with Ambassador Williamson on the positive benefits of appointing a UN

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special envoy, particularly if that envoy can work directly with Deputy Prime Minister Sok An, who does not necessarily share Hun Sen's distrust of the UN. He cautioned, however, the need to move slowly and to consult fully with the Cambodian government.

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Japan Lowers Contribution  
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17. (C) Amb. Williamson met separately on December 3 with Masato Kitera, MOFA's Ambassador in Charge of U.N. Affairs. Kitera explained that Japan is committed to supporting international tribunals in order to promote a more widespread respect for justice and the rule of law. Tokyo attaches a high priority to the ICTY and ICTR as institutions that can bring about justice and end impunity. Accordingly, Japan is proud of its leading role in contributing financial support. Unfortunately, due to a shrinking ODA budget and competing priorities, Japan was forced to lower its contribution last year from 19.5% of the total costs to 16.6%. Kitera noted that while the tribunals are important, it is also critical that the countries involved have a sense of partnership or ownership in the process in order to bring about positive changes for the better.

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Court Deadline Approaches  
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18. (C) Williamson replied that we are nearing the time when the deadlines for each of the two courts will arrive and noted that Japan has expressed a desire to cease financing them when this happens. The United States agrees that the courts must function effectively and complete their tasks, but it is likely they will not be able to do so prior to the existing deadlines. We should examine the possibility of personnel cuts and the closure of branch offices, and are anticipating reports from the courts, registrars which are due early next year. That said, we hope Japan will continue to support the courts even beyond their statutory deadline if it becomes necessary to extend them. The fugitives who have yet to be arrested or brought to justice cannot be given the impression that they can simply wait out the dissolution of the courts. Kitera agreed and said it is necessary to encourage the courts to speed up arrests.

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## Congressional Prohibition

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¶9. (C) With regard to Cambodia, Kitera said Japan is very proud of the role it has played in advancing the reconciliation process and supporting the Khmer Rouge Tribunal. More support for the tribunal is needed, and he said he hopes it will be possible for the United States to participate. Ambassador Williamson explained that there is a Congressional prohibition from giving funds to the Cambodian government, although progress has been made recently toward forging an exception, and we have been encouraged by recent arrests in Cambodia. However, corruption is a huge problem in Cambodia and this remains a major obstacle in getting Congress to give funds for the tribunal. He told Kitera that Japan can play a major role by working to convince the Cambodians to overcome this problem, at least as far as the tribunal is concerned. Kitera agreed that corruption is a big problem, but said he thought it would be very helpful if the United States could participate.

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## International Courts

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¶10. (C) Hosei University Law Professor Chikako Taya, formerly a judge for the International Criminal Tribunal for the former Yugoslavia (ICTY), told Ambassador Williamson that MOFA and MOJ lack knowledge and interest in the international courts but suggested that the Japanese government might consult her if the U.S. government encouraged it to.

¶11. (C) Taya asked what would happen when the ICTY closes and what if any powers would be maintained. As far as day-to-day business was concerned, she thought that in the near-term the International Criminal Court (ICC) judges and prosecutors could help with cases from the ICTY and International Criminal Tribunal for Rwanda (ICTR) after the two courts are shut down because the ICC workload is light at the moment. Taya also suggested a roster of judges and prosecutors who could be called on only when needed. She indicated that combining ICTY and ICTR would be more cost-effective.

¶12. (C) MOFA has no counterpart for Ambassador Williamson, Taya noted. One solution, she suggested, would be to increase the portfolio of Japan's Human Rights Ambassador while another would be to add another post. She also commented on the lack of specialists at MOFA, saying everyone is a generalist.

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Bio: Prof. Taya

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¶13. (SBU) According to Prof. Taya, she worked at MOFA when she was younger and later worked as a prosecutor. She attended the Sudan Convention and also worked with Japan's UN Mission in New York. Ambassador Katsuhiko Oku, a good friend and former colleague, recruited her to work at ICTY in The Hague; he was famously killed in Iraq in 2003. Taya said MOFA lacks a system for selecting the next candidate for the position.

¶14. (U) This message was cleared by Amb. Williamson.  
SCHIEFFER